

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, FEBRUARY 24, 2003
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 2:03 p.m. The meeting was adjourned by Mayor Murphy at 4:09 p.m. into Closed Session on Tuesday, February 25, 2003 at 9:00 a.m. in the twelfth floor conference room to discuss pending and potential litigation and Meet and Confer matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Fyre-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Abdelnour (er)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-not present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Pastor Garrett Graupner of Horizon Christian Fellowship

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by City Attorney Casey Gwinn.

FILE LOCATION: MINUTES

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

01/20/2003 Adjourned
01/21/2003 Adjourned
01/27/2003 Adjourned
01/28/2003
02/03/2003
02/04/2003

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:04 p.m. - 2:05 p.m.)

MOTION BY ZUCCHET TO APPROVE. Second by Atkins. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-31: Tenants Legal Center of San Diego Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-990) ADOPTED AS RESOLUTION R-297661

Commending Steven Kellman for his efforts as the founder of the Tenants Legal Center of San Diego;

Proclaiming February 24, 2003 to be "Tenants Legal Center of San Diego Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:05 p.m. - 2:09 p.m.)

MOTION BY FRYE TO ADOPT. Second by Inzunza. Passed by the following vote:
Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea,
Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-50: San Diego Fire & Life Safety Services Reorganization and Exempting Four (4)
Positions from the Classified Service.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 2/10/2003 (Council voted 9-0):

(O-2003-107) ADOPTED AS ORDINANCE O-19151 (New Series)

Exempting the positions of Assistant Fire Chief, Medical Educations Manager,
Fleet/Stores Manager, and Communications Manager from the classified service
and declaring the positions to be in the unclassified service of the City of San
Diego.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:20 p.m.)

CONSENT MOTION BY LEWIS TO DISPENSE WITH THE READING AND
ADOPT THE ORDINANCE. Second by Maienschein. Passed by the following vote:
Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea,
Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-51: Proposed Annexation of Improvement Area No. 4 to City of San Diego
Community Facilities District No. 2 (Santaluz).

(Black Mountain Ranch-Subarea I of the Future Urbanizing Area. District 1.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 2/11/2003 (Council voted 9-0):

(O-2003-109) ADOPTED AS ORDINANCE O-19152 (New Series)

Declaring that the Council of the City of San Diego, State of California, acting in its capacity as the legislative body of Community Facilities District No. 2 (Santaluz) authorizes the levy of a special tax within Improvement Area No. 4 of such district.

FILE LOCATION: STRT -CF-2 (58)

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:20 p.m.)

CONSENT MOTION BY LEWIS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Maienschein. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-52: Office Space Lease Amendment - Clairemont Community Service Center.

(Continued from the meetings of 1/28/2003, Item 55 and 2/10/2003, Item 201; last continued at the City Manager's request, in order to provide lease amendments. Clairemont Community Area. District-6.)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2003-87) INTRODUCED, TO BE ADOPTED ON MONDAY,
MARCH 17, 2003

Introduction of an Ordinance authorizing the City Manager to execute a Third Amendment to Lease agreement with the State Teachers Retirement Board of Ohio for the Clairemont Community Service Center and Police Storefront Center at a monthly rent of \$4,375.

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$22,546 from the Community Service Center Fund 10170, Dept. 1702 for FY03 and \$12,600 from the Police Department Fund 100, Dept. 110 for FY03.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

CITY MANAGER SUPPORTING INFORMATION:

The City's Clairemont Community Service Center and Police Storefront have been occupying space at 4731 Clairemont Mesa Boulevard since July 15, 1997. The Landlord has consented to extend their existing leased space and public Community Room space. The City is proposing to extend the lease under the following basic lease terms:

Right to Terminate Lease - Landlord and Tenant have the continuing right to terminate the Lease by providing a 90-day notice by July 1 of any year. The lease termination shall become effective on September 30 of such year.

Extension Term- Five (5) years, expiring August 31, 2007 for the CSC and Police Storefront. The leased space for the public Community Room will be extended for one (1) year, expiring August 31, 2003.

Rent- \$1.25 per square foot or \$4,375 per month for the CSC and Police Storefront space. The rent will remain flat throughout this extension term. No rent will be charged for the Community Room space. The rent is below market value compared to other space in the area.

Use - Community Service Center, Police Storefront, and community meeting usage.

Size - The CSC space is approximately 2,492 square feet. The Police Storefront is approximately 1,008 square feet, and the Community Room is approximately 1,500 square feet. Total square feet is 5,000.

FISCAL IMPACT:

An additional \$22,546 will be paid from the Community Service Center Fund 10170, Dept. 1702 for FY03 and \$12,600 will be paid from the Police Department Fund 100, Dept. 110 for FY03.

Herring/Griffith/DLM

Aud. Cert. 2300648.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:20 p.m.)

CONSENT MOTION BY LEWIS TO INTRODUCE THE ORDINANCE. Second by Maienschein. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-100: Two actions related to Inviting Bids and Award of Contract for the Construction of Sewer Pump Stations 25, 31, 32, 33, and 40 Improvements.

(See memorandum from Frank Belock, Jr. dated 12/4/2002. La Jolla, Midway, and Otay Mesa Community Areas. Districts-1, 2, and 8.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2003-509) ADOPTED AS RESOLUTION R-297662

Approving the plans and specifications for the furnishing of all labor, material, tools, equipment, transportation and other expense necessary or incidental and inviting bids for the Construction of Sewer Pump Stations 25, 31, 32, 33, and 40 Improvements [Project] on Work Order No. 176811;

Authorizing the City Manager to execute a contract with the lowest responsible and reliable bidder for the Project, contingent upon: (a) City Council approval of the expenditure of any additional Project funding that may become necessary as a result of the bid opening for the Project; and (b) the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under contract funding phase are, or will be, on deposit with the City Treasurer;

Authorizing an additional expenditure of an amount not to exceed \$2,211,948.36 from Sewer Fund 41506, CIP-46-106.0, Sewer Pump Station Restorations, contingent upon the passage of the FY 2004 Capital Improvement Program and Appropriations Ordinance Budgets, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for the expenditure under established contract funding phases are, or will be, on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K03506C)

Subitem-B: (R-2003-510) ADOPTED AS RESOLUTION R-297663

Certifying that the information contained in Mitigated Negative Declaration LDR-42-0417 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines, and that said declaration reflects the independent judgment of the City of San Diego as Lead Agency, and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the Construction of Sewer Pump Stations 25, 31, 32, 33, and 40 Improvements.

Approving the Mitigated Negative Declaration LDR-42-0417;

Directing the City Clerk to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 12/11/2002, NR&C voted 4 to 0 to approve. (Councilmembers Zucchet, Lewis, Frye, and Inzunza voted yea. Councilmember Madaffer not present.)

CITY MANAGER SUPPORTING INFORMATION:

This project involves the upgrade of five (5) Sewer Pump Stations. Sewer Pump Stations 25, 32, and 33 in the La Jolla area, Sewer Pump Station 31 in the San Ysidro area, and Sewer Pump Station 40 in the Midway/ Pacific Highway Corridor. The stations are still functional, but much of the existing equipment including motors, electrical, and control systems are worn and obsolete. The project's goal is to restore and improve the reliability of the pump stations and bring them up to current standards and regulations.

Upgrades include the replacement of control panels and motor control centers, upgraded ventilation systems, improved maintenance lift safety accesses, and new motor room hatches. A new electrical conduit from Pump Station 25 to a new transformer will also be installed. The existing equipment at these pump stations were installed as early as 1967.

During the construction phase of the project, the contractor will be working between 8:30 a.m. to 3:30 p.m., Monday through Friday. The work will be performed within the pump station buildings with the exception of Pump Station 25 where a new electrical conduit will be installed in the road. In addition, there will be a Summer Moratorium between May 27 through September 30 in the areas along Coast Boulevard.

The project has been presented to the communities. In addition, nearby residents will be notified by mail at least one (1) month before construction begins by the City's Engineering and Capital Projects Department and again ten (10) days before construction begins by the contractor through hand distribution.

FISCAL IMPACT:

The total estimated cost of this project is \$2,352,946.36. Funds of \$2,211,948.36 are available from Sewer Fund 41506, CIP-46-106.0, Sewer Pump Station Restorations, for this purpose. This project is scheduled to be phase funded within FY 2004.

Loveland/Belock/HR

WWF-03-640.

FILE LOCATION: W.O. 176811

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:20 p.m.)

CONSENT MOTION BY LEWIS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-101: El Capitan Pipeline Lease Agreement with Padre Dam Municipal Water District.

(See memorandum from Larry Gardner dated 7/25/2002.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-952) ADOPTED AS RESOLUTION R-297664

Authorizing the City Manager to execute an agreement with Padre Dam Municipal Water District, for lease of the City's El Capitan Pipeline.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 7/31/2002, NR&C voted 4 to 0 to approve. (Councilmembers Wear, Frye, Madaffer and Inzunza voted yea. Councilmember Peters not present.)

CITY MANAGER SUPPORTING INFORMATION:

This agreement is between the City of San Diego (City) and Padre Dam Municipal Water District (Padre Dam) for leasing the El Capitan Pipeline from station 426+39± (being generally in the vicinity of Woodside Avenue at River Street in the community of Lakeside) to station 311+95±. The existing El Capitan Pipeline Lease Agreement between the City Of San Diego and Rio San Diego Municipal Water District, dated February 24, 1977 expired on December 31, 2001. Padre Dam (formally known as Rio San Diego Municipal Water District), has expressed the continued need for the Pipeline for purposes of transporting treated water from the San Diego County Water Authority's Second Aqueduct to its service area being generally easterly of the community of Lakeside.

The City has agreed to continue to lease the Pipeline under the terms of this agreement. The City does not currently have plans to utilize such pipeline for its use within the next five years. However, it is important to have the option to use it in the future, if necessary. The total term of the agreement is for two (2) five (5) year terms, unless either party chooses not to renew after the first 5 year term.

FISCAL IMPACT:

CIP number not applicable. The pipeline is in place and no construction or improvements are required. Revenues will be generated to the City's Water Department by payment of Padre Dam for use of the pipeline. The total lease payment to the City will be \$33,339 per year.

Mendes/Gardner/RM

FILE LOCATION: LEAS - Padre Dam Municipal Water District

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:20 p.m.)

CONSENT MOTION BY LEWIS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-102: Two actions related to South San Diego Recycling Market Development Zone Redesignation.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2003-980) ADOPTED AS RESOLUTION R-297665

Authorizing the City Manager to submit to the California Integrated Waste Management Board a joint application by the City of San Diego, County of San Diego, and City of Chula Vista for the renewal of the existing South San Diego Recycling Market Development Zone in the Otay Mesa and City of Chula Vista areas, and to execute all documents required by this application;

Directing the City Manager to administer the RMDZ program in a manner that seeks to ensure the fair treatment of people of all races, cultures, and incomes, including but not limited to soliciting public participation in all communities within the South San Diego RMDZ.

Subitem-B: (R-2003-981) ADOPTED AS RESOLUTION R-297666

Adoption of a Resolution certifying that the Negative Declaration, LDR-42-0906, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgement of the City of San Diego as Lead Agency, and that the information contained in the Negative Declaration, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the City's application for redesignation of the South San Diego Recycling Market Development Zone;

That the City Council finds, based on the Initial Study and any comments received, that there is no substantial evidence that the project will have a

significant effect on the environment and therefore that the Negative Declaration LDR-42-0906 is approved;

That the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

CITY MANAGER SUPPORTING INFORMATION:

The California Integrated Waste Management Board (CIWMB) established Recycling Market Development Zones (RMDZ) in 40 regions of the State of California. These RMDZs promote recycling by providing recycled product manufacturers access to a State low-interest loan program, assistance in permitting, feedstock identification, favorable zoning codes, and referrals to local agencies and business assistance groups, if they site within an RMDZ. The City Council has designated two areas in San Diego as RMDZs: South San Diego (Otay Mesa) in 1992 and North County (Miramar and Rancho Bernardo) in 1994. The RMDZs were designated for 10 years and the South San Diego RMDZ designation is set to expire on March 31, 2003.

The South San Diego RMDZ originally consisted of the Otay Mesa Community (City of San Diego and unincorporated County of San Diego areas), and now includes the City of Chula Vista, which was included in the Zone in 2000 through a redesignation application. Chula Vista acted as the lead agency for this redesignation process, which included preparing a Negative Declaration to satisfy the CIWMB regarding CEQA compliance.

No significant project changes have taken place since the 2000 "redesignation" project was completed. The City of San Diego is acting as the lead agency for the current redesignation process, and Negative Declaration LDR-42-0906 was prepared for the project. The current redesignation will allow the South San Diego RMDZ to retain its designation beyond the March 31, 2003 expiration date, and continued access by local businesses to the resources described above. The outreach and assistance provided through the RMDZ program are components of the City's good faith efforts to meet State mandated solid waste diversion goals. The materials diverted through these efforts provide an ample supply of feedstock for recycled product manufacturers, and the continued development of local infrastructure enhances the City's waste diversion and economic development efforts.

FISCAL IMPACT:

There is no anticipated fiscal impact resulting from this action.

Loveland/Hays/KP

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:20 p.m.)

CONSENT MOTION BY LEWIS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-103: Construction of Traffic Signal and Street Lighting Systems at Various Locations.

(Carmel Valley, Mira Mesa, Miramar Ranch North and Mid-City Community Areas. Districts-1, 3 and 5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-985) ADOPTED AS RESOLUTION R-297667

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$65,000 from TransNet Fund 30306, CIP-68-010.0, Traffic Signals-City Wide, to the CIP projects identified in Attachment A;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed a total amount of \$65,000 from TransNet funds for the traffic signal and street lighting system CIP projects, provided that the City Auditor and Comptroller first furnishes a certificate that funds are available;

Authorizing the City Auditor and Comptroller to reallocate the funding sources between TransNet and commercial paper funded projects as may be appropriate to maximize the use of TransNet cash to reduce the use of commercial paper funding for the projects;

Authorizing the City Manager to process an amendment to the Del Mar Mesa Facilities Financing Plan, in Fiscal Year 2004, or at the earliest possible time

thereafter, for the reimbursement of advanced funds in the amount of \$17,000, to TransNet Fund 30306, CIP-68-010.0, Traffic Signals-Citywide, for the additional cost related to the construction of the traffic signal and street lighting system at Carmel Country Road and Caminito Clasica;

Authorizing the City Auditor and Comptroller, upon advice from administering departments, to transfer excess budgeted funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

During the planning and design of the projects, it was discovered that the construction costs will be more than the initial cost estimates. The initial cost estimates on these projects were based on the average signal costs at that time. The initial cost estimates did not include such items as: L.E.D. technology for signal and pedestrian indications that save energy, but are initially more expensive than incandescent bulbs or neon tubes used previously, and the installation of video detection at one of the locations to avoid an easement required on private property. The cost of these items and recent cost increases for other traffic signal hardware such as: signal poles, mast arms, and luminaire arms, resulted in the higher revised cost estimates. \$65,000 has been identified in CIP-68-010.0, Traffic signals-Citywide annual allocation to fund the additional costs anticipated during the construction of these projects.

The original condition placed upon the developer for the traffic signal and street lighting system at the intersection of Carmel Country Road and Caminito Clasica was to fund 50% of the total cost of the project, with the Del Mar Mesa FBA Fund paying the other 50%. This was predicated on an estimated total project cost of \$100,000. The revised estimated total project cost is \$134,000. Therefore, the Del Mar Mesa FBA will pay 50% of the additional \$34,000 cost of this project, with the other 50% paid by the City of San Diego.

FISCAL IMPACT:

\$17,000 out of the \$65,000 will be reimbursed to CIP-68-010.0, Traffic Signals-Citywide, in Fiscal Year 2004 through an amendment to Del Mar Mesa Public Facilities Financing Plan.

Loveland/Belock/PB

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:20 p.m.)

CONSENT MOTION BY LEWIS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-104: Via Las Cumbres Accelerated Sewer Project - Sewer Easements.

(Linda Vista Community Area. District-6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-828) ADOPTED AS RESOLUTION R-297668

Authorizing the City Manager to acquire and accept easement deeds for needed property rights and to execute quitclaim deeds to appropriate property owners for portions of sewer easements being abandoned or exchanged as part of the Via Las Cumbres Accelerated Sewer Project;

Authorizing the expenditure of an amount not to exceed \$40,000 from Sewer Fund 41506, CIP-46-206.0, Annual Allocation - Emergency Construction, for the acquisition of property rights and related costs necessary for the construction of the Via Las Cumbres Accelerated Sewer Project.

CITY MANAGER SUPPORTING INFORMATION:

The Via Las Cumbres Accelerated Sewer Project proposes to rehabilitate existing sewer mains and manholes in the Linda Vista community. As part of the overall project a small segment of the existing sewer will be realigned in order to redirect existing sewer flows out of an open space canyon area into nearby Tait Street.

This action authorizes necessary funding and the acquisition, exchange, and abandonment of portions of sewer easements necessary for the construction of the project.

FISCAL IMPACT:

Funding in the amount of \$40,000 to cover the acquisition of the necessary property rights and

related costs is available in Sewer Fund 41506, CIP-46-206.0, Annual Allocation - Emergency Construction.

Herring/Griffith/SAC

Aud. Cert. 2300823.

FILE LOCATION: DEED F-9396

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:20 p.m.)

CONSENT MOTION BY LEWIS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-105: Mid-City Pipeline Project - Close Out.

(See memorandum from Larry Gardner dated 11/7/2002. Mid-City and College Community Areas. Districts-3 and 7.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-853 Cor. Copy) ADOPTED AS RESOLUTION R-297669

Approving Change Order No. 17, dated January 21, 2003, issued in connection with the contract with PCL Civil Constructors, Inc. for the Mid-City Pipeline Improvements Project, amounting to a net increase in the contract price of \$344,815.56 to close out of the Mid-City Pipeline Project;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$239,766.61 from Water Fund 41500, CIP-73-277.0, Annual Allocation - Standpipes & Reservoirs Rehabilitation, as follows: \$178,866.71 to CIP-73-246.0, Mid-City Pipeline Improvements; \$899.90 to CIP-75-927.0, San Diego 18 Flow Control Facility; and \$60,000 to CIP-39-234.0, College Area Business Improvement District - Landscaping;

Authorizing the expenditure of an amount not to exceed \$178,866.71 from CIP-73-246.0, Mid-City Pipeline Improvements; \$320,525.75 from CIP-73-331.0, Water Pooled Contingency; \$60,000 from CIP-39-234.0, College Area Business Improvement District - Landscaping; and \$899.90 from CIP-75-927.0, San Diego 18 Flow Control Facility, to provide funds for Change Order No. 17 and project related costs of the Mid-City Pipeline Projects, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be on deposit with the City Treasurer;

Approving the additional expenditure for use of city forces for water connection efforts at a cost not to exceed \$45,600 (\$40,000 for Mid-City Pipeline, \$600 for Group Job 489A, and \$5,000 for Group Job 490A);

Authorizing the City Auditor and Comptroller to transfer \$60,000 from Water Fund 41500 to Special Fund 10524;

Authorizing the City Auditor and Comptroller to appropriate and expend \$60,000 from Fund 10524 into CIP-39-234.0;

Authorizing the City Auditor and Comptroller to increase the FY03 Capital Improvement Budget in CIP-39-234.0, College Area Business Improvement District-Landscaping, in Fund 10524, Water Contributions to Other Capital Improvement Projects, in accordance with the Fiscal Year 2003 Annual Appropriation Ordinance;

Authorizing the City Auditor and Comptroller to transfer excess budgeted funds, if any, to the appropriate reserves on advice of the administering department.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 11/13/2002, NR&C voted 5 to 0 to approve. (Councilmembers Peters, Wear, Frye, Madaffer and Inzunza voted yea.)

CITY MANAGER SUPPORTING INFORMATION:

The Mid-City Pipeline Project (MCPL) consists of approximately 23,735 linear feet of 48-inch, 24-inch and 20-inch water mains in the Mid-City areas of San Diego. It is supplementing the existing 50 year old Trojan Pipeline, providing redundancy to the Redwood Village Pressure

Zone and increasing pressure in the Normal Heights area. This pipeline will provide a reliable water source to the community and facilitate necessary repairs or maintenance to the Trojan Pipeline. In order to lessen the construction impacts to the community, two water main replacement projects (Group Jobs 489A & 490A) and a CWA Inlet Pipeline were added to the MCPL. The Mid-City Pipeline provides a needed backup supply of water to Mid-City area communities of City Heights, College Area, Darnell, El Cerrito, Kensington, North Park, Normal Heights, Oak Park, Redwood Village, Rolando, Talmadge and University Heights. Subsequent growth and development in Mid-City over the past two decades placed an ever-increasing demand on the existing pipeline, which results in lower than acceptable water pressure. On November 9, 1999, the City Council awarded the construction contract to PCL Civil Constructors, Inc. (R-292438) and construction started in January 2000. This contract was 19.6 percent below the engineer's estimate. The construction of the Mid-City Pipeline was one of the most challenging pipeline projects, which involved significant amount of coordination with residents, businesses, schools, churches, various private utility agencies, both night and day construction, complex water shutdowns and limited as-built records to determine existing utility locations within the right of way. Lack of accurate as-built records resulted in unpredictable changes throughout the construction, which were unavoidable. During the excavation for the new pipeline the contractor damaged a 16-inch live water main in July of 2000. The high quantity of water caused significant flooding in the area and resulted in joint deformity of newly installed 48-inch pipelines. The insurance carrier for this job covered partial cost of the assessed damages. (The City will continue to pursue full coverage of costs associated builders risk insurance as a result of this pipeline break.) Change Order No. 17 at a cost of \$344,815.56 covers costs associated with the replacement of four deformed pipes, clean up and investigation associated with the replacement of four deformed pipes.

Another major challenge in this project was the construction of the last of the six connections located in the 63rd Street connecting Mid-City Pipeline to the existing Trojan Pipeline. The Trojan Pipeline, which is the only water supply for the Mid-City area, must be isolated and shut down during low demand period, winter or spring time, in order to make the connection to Mid City Pipeline possible. Due to uncertainty of Trojan Pipeline structural integrity and impending high water demands, the project team intensified its efforts to make these critical connections before the summer water demands. It was decided to energize, monitor and test the reliability of supplying water through newly built east portion of the MCPL before shutting down the Trojan Pipeline. This effort was not part of the project's original scope of work and therefore resulted in additional costs. The connection was completed successfully and had minimal impact on the delivery of water to the MCPL area. As a result, water connection efforts resulted in considerably higher City Force Work. Construction and administration costs were also substantially higher than was initially budgeted.

At the request of the College Area Business Improvement District and Council District 7 and in order to mitigate the negative impacts of the construction of MCPL, the Water Department completed the installation of the underground irrigation system and conduit for electrical wiring which cost over \$300,000, the additional \$60,000 as part of this closeout will be transferred to the Transportation and Drainage Department to be used for future median enhancement to achieve and complete Water Department commitment to the MCPL communities. This request for approval is for additional costs associated with City Force Work, increased construction and administration costs, payment of Change Order 17, median improvement and other related costs to close out the project. It is not anticipated that this action will have any impact on other CIP projects.

ENVIRONMENTAL HISTORY:

A Mitigated Negative Declaration (LDR-94-0236) for the Mid-City Pipeline Project was originally adopted March 29, 1999 by City Council Resolution No. R-290296.

FISCAL IMPACT:

Total cost of Mid-City Pipeline Projects is \$26,552,709.57, of which \$25,992,417.21 has been previously authorized. Funding in the amount of \$560,292.36 is available from CIP-73-331.0, Water Pooled Contingency, and CIP-73-277.0, Annual Allocation Standpipes & Reservoirs Rehabilitation.

Mendes/Gardner/MML

Aud. Cert. 2300868.

FILE LOCATION: CONT - PCL Civic Contractor Inc. W.O. 182011

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:20 p.m.)

CONSENT MOTION BY LEWIS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-106: San Diego Regional Agency Proposed Weighted Voting Procedures (SB1703).

(See memorandum from Mayor Murphy dated 1/21/2003.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-983) ADOPTED AS RESOLUTION R-297670

Declaring that the voting procedures for the two San Diego Regional Agency (SDRA) Board members from the City of San Diego are as follows:

- 1) When both members are present at any meeting of the SDRA Board, each member has 50 percent of the allocated weighted votes and both members shall sit next to each other.
- 2) When only one member is present at any meeting of the SDRA Board, that member shall have 100 percent of the allocated weighted votes.
- 3) The single agency vote shall be assigned to the Mayor or in his absence the member with the most years of service with SANDAG or the SDRA or its successor agency.

**RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S
RECOMMENDATION:**

On 1/29/2003, RULES voted 5 to 0 to approve the procedure described in the Mayor's January 21, 2003 memo (Councilmembers Peters, Maienschein, Madaffer, Inzunza and Mayor Murphy voted yea.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:20 p.m. - 2:24 p.m.)

MOTION BY FRYE TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-107: Excusing Councilmember Scott Peters from City Council on February 3, 2003.

COUNCILMEMBER PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2003-995) ADOPTED AS RESOLUTION R-297671

Excusing Councilmember Scott Peters from attending the regularly scheduled Council meeting of February 3, 2003, to attend a meeting of the California Commission of Tax Policy in the New Economy in Sacramento.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:20 p.m.)

CONSENT MOTION BY LEWIS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-108: Nomination to the Southeastern Economic Development Corporation Board of Directors.

(See memorandum from Mayor Murphy dated 2/12/2003 with resumes attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1017) ADOPTED AS RESOLUTION R-297672

Nominating the following persons for election to the Southeastern Economic Development Corporation Board of Directors:

NOMINEE

Kurt A. Chilcott
(reappointment)
Kathleen A. Garcia
(reappointment)
Zoneice Z. Jones
(reappointment)
Randy K. Jones
(replacing Douglas Odent)
Chip M. Owen
(replacing Ruben Rodriguez)
Larry W. Porter, Sr.
(replacing Gregory Thorpe)

NOMINATED BY

Mayor Dick Murphy
Mayor Dick Murphy
Mayor Dick Murphy
Councilmember Charles Lewis
Councilmember Charles Lewis
Councilmember Charles Lewis

Declaring that after full and complete public discussion and deliberation, Kathleen A. Garcia, Zoneice Z. Jones, and Chip M. Owen are elected to the Southeastern Economic Development Corporation Board of Directors, for three-year terms ending May 25, 2004;

Declaring that after full and complete public discussion and deliberation, Kurt A. Chilcott, Randy K. Jones, and Larry W. Porter, Sr. are elected to the Southeastern Economic Development Corporation Board of Directors, for three-year terms ending May 25, 2005.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:20 p.m.)

CONSENT MOTION BY LEWIS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-109: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District-8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-847) ADOPTED AS RESOLUTION R-297673

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L - State of Emergency regarding the
discharge of raw sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:20 p.m.)

CONSENT MOTION BY LEWIS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-110: Declaring a Continued State of Emergency Due to Severe Shortage Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-899) ADOPTED AS RESOLUTION R-297674

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L - State of Emergency due to severe shortage
of affordable housing in the City of San Diego

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:20 p.m.)

CONSENT MOTION BY LEWIS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-111: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-947)

ADOPTED AS RESOLUTION R-297675

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

CITY MANAGER'S SUPPORTING INFORMATION:

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

FILE LOCATION:

GEN'L - Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV)

COUNCIL ACTION:

(Time duration: 2:17 p.m. - 2:20 p.m.)

CONSENT MOTION BY LEWIS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-nay, Frye-yea, Madaffer-nay, Inzunza-yea, Mayor Murphy-nay.

- * ITEM-112: Declaring a Continued State of Emergency due to Economic Circumstances in the San Diego-Tijuana Border Region.

(District-8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-801) ADOPTED AS RESOLUTION R-297676

Declaring a Continued State of Emergency due to economic circumstances in the San Diego-Tijuana border region.

FILE LOCATION: GEN'L - State of Emergency due to economic
circumstances in the San Diego-Tijuana border
region

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:20 p.m.)

CONSENT MOTION BY LEWIS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-200: Mid-Year Financial Status Report.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-939) ADOPTED AS RESOLUTION R-297677

Mid-Year Financial Status Report.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:24 p.m. - 4:04 p.m.)

MOTION BY MAIENSCHIEIN TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-nay, Zucchet-nay, Atkins-nay, Lewis-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-201: First Public Hearing - Two actions related to Annual Appropriation Ordinance to Reallocate Monies to the General Fund to Cover Budget Shortfalls for Fiscal Year 2002-2003.

CITY MANAGER'S RECOMMENDATION:

Introduce the ordinance in Subitem A and hold the first public hearing of the ordinance in Subitem B:

Subitem-A: (O-2003-116) INTRODUCED, TO BE ADOPTED ON
MONDAY, MARCH 17, 2003

Introduction of an Ordinance amending Chapter 6, Article 3, Division 0 of the San Diego Municipal Code by amending Section 63.30 relating to the Utilization of the Environmental Growth Fund.

Subitem-B: (O-2003-117) FIRST PUBLIC HEARING HELD

First public hearing of an Ordinance amending the Annual Appropriation Ordinance to reallocate monies to the General Fund to cover budget shortfalls for Fiscal Year 2002-2003.

NOTE: Today's action is the first public hearing. See Item 334 on the docket of Tuesday, February 25, 2003 for the second public hearing and introduction and adoption of the ordinance.

CITY MANAGER SUPPORTING INFORMATION:

The following actions by the Council will enable the City 's General Fund to end the year in balance:

Under the Fiscal Year 2003 budget, City Council allocated \$610,983 of general fund monies to go toward land acquisition for the Multiple Species Conservation Program (MSCP). This money was combined with previously allocated general fund monies within CIP-37-443.0, Multiple Species Conservation Program-Property Acquisition, for a total of \$907,483.

CIP-37-443.0 was established by Council for the acquisition of land in the MSCP upon Council approval. The CIP monies were targeted for land acquisitions in the East Elliott area of the City of San Diego; one of the City's acquisition targets. Land acquisition in East Elliott is proposed to consist of two phases totaling approximately 1,750 acres at an estimated cost of \$33-\$43 million. The proposed Council action would reallocate the \$907,483 of general fund monies to cover the budget shortfalls for Police and Fire-Rescue departments within the general fund in Fiscal Year 2003. The reallocated monies would be offset with non-general fund monies from the Habitat Acquisition Fund (10571) to continue to acquire land in East Elliott; however, the proposed action would result in the loss of general fund monies previously allocated towards MSCP land acquisition.

By transferring \$700,000 from the Open Space Acquisition Fund 30252 to Open Space Park Facilities District Fund 71631 for debt payments, a surplus will be created in the Environmental Growth Fund 2/3, the fund which normally transfers the entire debt service payment to Fund 71631. By amendment of the Municipal Code, the surplus funds in EGF 2/3 will be used for enhancing and preserving open space and parks. Due to shortfalls in franchise revenues in Fiscal Year 2003, the Environmental Growth Fund 1/3 is unable to fully reimburse these eligible programs executed by the General Fund. This action will allow the EGF 2/3 to accommodate for those revenue shortfalls, keep the Environmental Growth Funds in balance and preserve the reimbursements to the General Fund.

The City has earned interest on several Development Agreement Funds. In all cases, the intended purposes and projects for which the Development Agreement funds were originally received have been completed and the principal will not be affected by this action. As the City is the equitable owner of these funds, it is intended that the City utilize the \$778,913 in interest earnings thereon, for the purpose of funding General Fund programs.

The Belmont/Mission Beach Traffic Fund 10532 was created in 1986 to collect minimum lease payments of \$70,000/year to be spent solely on projects and improvements in the Mission Beach/Mission Bay communities that improve traffic conditions within those communities. Traffic conditions also include "pedestrian traffic" such as the boardwalk.

CIP projects 52-687.0, Ventura Entryway Improvements, CIP 52-533.1, Mission Beach Boardwalk Widening-Eastern, and CIP 52-533.2, Mission Beach Boardwalk Widening-Santa Barbara Place to PB Drive all qualify as eligible Belmont/Mission Beach Traffic fund 10532 projects, but have existing TOT-Coastal Infrastructure fund 102232 funding and expenditures. This proposed Council action would replace the existing TOT-Coastal Infrastructure fund 102232 appropriation and expenditures with eligible Belmont/Mission Beach Traffic Fund 10532 monies for all 3 CIP projects identified. Then, the \$349,000 in TOT-Coastal Infrastructure funds would be returned to the General Fund to cover anticipated shortfalls in the Police and Fire-Rescue department budgets.

The General Fund helped establish the Recycling Program Fund using Sycamore Canyon Franchise Fees. Pursuant to Franchise Facility Agreement (Document No. 00-18668, approved August 2, 1999) in effect between the City and Allied Waste, the Recycling Fund - 41210 will return \$1,200,000 to the General Fund 100 for the purpose of funding General Fund programs.

Return to the General Fund of monies appropriated in 1998 and 1999 as a "Loss Reserve" in the amount of \$1,100,000 from Emergency Medical Services Medical Transportation Services (EMS/MTS) Fund -10246. This Loss Reserve was created as a contingency for losses as a result of the partnership between the City and Rural Metro. No losses have occurred since inception of the program, therefore the City Auditor has agreed to release the funds to the General Fund and expend those funds for the purpose of funding General Fund programs.

Uberuaga/Irvine/PKT

Aud. Cert. 2300910.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:24 p.m. - 4:04 p.m.)

MOTION BY MAIENSCHIN TO INTRODUCE THE ORDINANCE IN SUBITEM A; HOLD THE FIRST PUBLIC HEARING AND AMEND THE ORDINANCE BY DELETING BUDGET CATEGORY NUMBER 3 AND APPROVING BUDGET CATEGORIES 1, 2, 4, 5, 6, AND 7 IN SUBITEM B. Second by Madaffer. Passed by the following vote: Peters-nay, Zucchet-nay, Atkins-nay, Lewis-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S400: St. Spyridon Greek Orthodox Church 75th Anniversary Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2003-1009) ADOPTED AS RESOLUTION R-297678

Celebrating St. Spyridon Greek Orthodox Church's 75th Anniversary;

Proclaiming February 24, 2003 to be "St. Spyridon Greek Orthodox Church 75th Anniversary Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:09 p.m. - 2:17 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Mayor Murphy. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEM:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 4:09 p.m. in honor of the memory of:

Norman John Costello as requested by Council Member Frye; and
Ray Blair as requested by Mayor Murphy.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:04 p.m.- 4:09 p.m.)